THE HON'BLE SRI JUSTICE C.V. RAMULU

Wednesday, the 28th day of March,2007

W.P.No.9380 of 1998

Between:-

N. Narsa Reddy … Petitioner

and

The Labour Court-II,
Hyderabad and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.9380 of 1998

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to Award dated 12-9-1996 made in I.D.No.135 of 1994 on the file of Labour Court-II, Hyderabad and to quash the same.

Petitioner is the workman and respondents 2 and 3 are the Management. By the said Award, the respondent-Management was directed to reinstate the petitioner into service as a fresh Conductor, but the other benefits, such as, continuity of service, back wages etc., were denied.

According to the petitioner, he was appointed as a Conductor in the respondent-A.P. State Road Transport Corporation in the year 1971. While so, on 28-5-1972 when he was conducting the bus No.APZ 4917 on route Modhouli (stage No.22) a check was exercised and certain cash and ticket irregularities were found. On the basis of the charge memo issued by the checking officials, a charge sheet dated 5-6-1972 was issued. Petitioner submitted his explanation to the said charge sheet on 11-6-1972. Being not satisfied with the explanation submitted by the petitioner, the Management conducted a detailed enquiry into the matter and the petitioner was removed from service by an Order dated 28-12-1972. It appears, petitioner, aggrieved by the said order of removal filed an appeal before the Divisional Controller, Karimnagar and the same was rejected on 20-1-1974. Subsequently, a mercy appeal to the Chairman was also filed

and the same was rejected in the year 1975. Thereafter, in the year 1994, the petitioner filed a claim petition under Section 2-A(2) of the Industrial Disputes Act,1947 before Labour Court-II, Andhra Pradesh, Hyderabad. The same was entertained by the Labour Court. The respondent-Management filed a counter before the Labour Court denying the allegations made by the petitioner.

Before the Labour Court, no oral evidence was adduced by either side. However, on behalf of the Management, Exs.M1 to M22 were marked, but no documents were marked on behalf of the workman. After a detailed consideration of the entire evidence on record, the Labour court came to the conclusion that the findings of the Enquiry Officer and the proceedings of the Management about the complicity of the workman became unassailable; but, taking into consideration the totality of the facts and circumstances, the nature of the service and the amount involved, the Labour Court found that the punishment of removal from service is disproportionate to that of the misconduct proved. Therefore, the Labour Court set aside the removal order dated 28-12-1972 and directed the Management to reinstate the workman as a fresh candidate, in view of the inordinate delay and also that he was only an apprentice at the relevant time of his removal. Now, this Writ Petition is filed by the workman seeking further relief.

There is no necessity of going into all the details. The petitioner was removed from service in the year 1972 and his appeal and mercy appeal were also rejected in the years 1974 and 1975 respectively. He filed the claim petition under Section 2-A(2) of the Act in the year 1994 i.e. after about 20 years of removal from service. Somehow, the Labour Court entertained the I.D. and passed the impugned Award on the basis of some findings arrived at by it. The petitioner was appointed in the year 1971 and removed from service in the year 1972

when he was only an apprentice. I am of the considered opinion that the very claim itself ought not to have been entertained by the Labour Court. However, the Labour Court took a decision on merits and by showing lenience, directed fresh appointment of the petitioner. In fact, the Labour Court itself has shown much lenience and in the facts and circumstances of the case, the petitioner is not entitled for any further relief. The Writ Petition is devoid of any merit and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

28-3-2007

prk